

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WENDELL F. FAIRMAN,

Plaintiff,

v.

CORRECTIONAL OFFICER PEAK,

Defendant,.

ORDER

08-cv-115-bbc

In an order dated March 11, 2008, I allowed plaintiff to proceed on his Eighth Amendment claims against defendant Correctional Officer Peak. Although defendant has not yet filed an answer (which is due on April 21, 2008), he has filed a motion for summary judgment pursuant to Fed. R. Civ. P. 56 on the ground that plaintiff has failed to exhaust his administrative remedies as required by the Prison Litigation Reform Act. 42 U.S.C. 1997e(a). Defendant has jumped the gun. At the preliminary pretrial conference, which will be scheduled as soon as defendant files his answer, Magistrate Judge Stephen Crocker will issue a scheduling order for filing dispositive motions such as motions for summary judgment. In addition, he will explain to the parties the proper procedure to follow in filing such motions as well as responding to them.

ORDER

IT IS ORDERED that defendant's motion for summary judgment (dkt. 8) is DENIED without prejudice to defendant's refiling it after the preliminary pretrial conference.

Entered this 26th day of March, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge